IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 16818 of 2004

Between:

Bandari Harinath, S/o.Late Ramulu, OCC: retired employee
Bhadrachalam, Khammam Dist.

... PETITIONER

AND

1 The M.R.O., Bhadrachalam, Khammam Dist.
2 The Agency Divisional-officer, (Sub-Collector) Bhadrachalam

Khammam Dist.
3 The Govt. of India, rep.by its Chairman, Tobacco Board, Guntur.
4 The Auction Superintendent, Tobacco Board, Bhadrachalam,

Khammam Dist.
5 Sri Seetharamachandra Swamy Vari Devasthanam, rep.by its

Executive - officer, Bhadrachalam, Khammam Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of mandamus declaring the action of the respondent No.4 Temple authorities in executing sale deed in favour of the Tobacco Board, i.e., respondent No.3 for transferring the lands of the petitioner situated in scheduled area contrary to section 3 of A.P. schedule Areas land Transfer Regulation 1/1959 and its amendment 1/1970 and also contrary to the law laid down by Apex court which is reported in SAMATHA Vs. STATE OF A.P.1997(8) SCC- 191 and taking steps to evict the petitioner from the lands which are in his possession in Sy.No.5/1 situated at Purushothapatnam village, Bhadrachalam Mandal to an extent of Acres.4.5. as highly arbitrary, illegal and violative of Article

14, 21 and 300(A) of the Constitution, and consequentially to declare the respondents are no way concerned with the possession and enjoyment of the lands of the petitioner.

Counsel for the Petitioner: MR.P.V.RAMANA

Counsel for the Respondents

1 and 2: GP FOR REVENUE, for R-3 and 4: Mr. S. Srinivas Reddy, for R-5 Mr. K. Ravi.

The Court at the admission stage made the following:

ORDER:

Petitioners, who are claiming to be in longstanding possession of Acres 4.5 in Sy.No.5/1 of Purushothapuram village, filed the present Writ Petition stating that fifth respondent temple executed a Sale Deed in favour of the third respondent for transferring the lands, which are in possession of the petitioner. In turn, fourth respondent requested the S.I. of Police for providing protection for eviction of the petitioners on 02-09-2004; the said action is arbitrary and illegal.

2. The Sale Deed executed by the fifth respondent in favour of the fourth respondent is in violation of the Land Transfer Regulations and under the said void Sale Deed, petitioner cannot be dispossessed. An identical Writ Petition being W.P.No.10398 of 1999 was filed by one Kondaveena Brahmaiah, which was dismissed by this Court on 20-12-2002, wherein the very same counsel appeared for the parties. This Court, after taking note of the counter affidavit filed therein, observed that petitioners and several others who are in occupation of the land in question were declared as trespassers as long back as on 11-02-1950 in O.S.No.81/48, which became final. This Court in W.P.No.20649 of 1993 and batch, dated 05-08-1998 held that all the persons who are in occupation of the temple in question are encroachers and trespassers and have no right to continue in possession. In the above Writ Petition, notice was issued to the persons who are in occupation under Section 85 of the A.P. Charitable and Hindu

Religious Institutions and Endowments Act, 1987
(for short “the Act”), and duly evicted after following the procedure. Holding so, the Writ Petition was dismissed. The said judgment was also confirmed by a Division Bench of this Court in W.P.No.1741 of 1998 and batch, dated 02-11-1998.

3. In view of the same, if the petitioner who is in possession of the said property, if any, is sought to be dispossessed, proper remedy available for the petitioner is to move the competent authority by way of a Civil Suit under the regulations to protect his possession, if any, against the fourth respondent.

The Writ Petition is accordingly dismissed. No costs.

_____

A. **GOPAL REDDY, J**

September 20, 2004

MRR

To:

1 The M.R.O., Bhadrachalam, Khammam Dist.
2 The Agency Divisional-officer, (Sub-Collector) bhadrachalam

Khammam Dist.
3 The Chairman, Tobacco Board, Govt. of India, Guntur.
4 The Auction Superintendent, Tobacco Board, Bhadrachalam,

Khammam Dist.
5 The Executive – officer, Sri Seetharamachandra Swamy Vari Devasthanam,

Bhadrachalam, Khammam Dist.

6 Two C.C. s to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

7 Two C.D. Copies.